

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
Racoon's CB Repair, Inc.) File No.: EB-07-TP-072
Seffner, Florida 33584) Citation No.: C20073270011

CITATION

Released: August 6, 2007

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to Racoon’s CB Repair, Inc. (“Racoon”), for violation of Section 302(b) of the Act,² and Sections 2.803(a)(1) of the Commission’s Rules (“Rules”).³

2. Investigation by the Commission’s Tampa Office of the Enforcement Bureau (“Tampa Office”) revealed that on February 5, 2007, Racoon offered for sale non-certified Citizens Band (“CB”) transceivers. A partial listing follows:

<u>Brand Name</u>	<u>Model</u>	<u>Price</u>
Galaxy	DX-33HML	\$260.00
Galaxy	DX-44	\$270.00
Connex	3300-HP	\$280.00

According to Commission records, these devices have not received an FCC equipment authorization, which is required for CB transmitters marketed in the United States.

3. Section 302(b) of the Act provides: “No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Rules provides that “...no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled...” Racoon’s offering for sale of the transceivers listed in paragraph two violates both of these sections.

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. § 2.803(a)(1).

4. Although Racoon marketed the devices listed in paragraph two as 10 meter amateur radios, the devices in question have been evaluated by the Commission and have been found to fall within the definition of a CB transmitter because they can be easily configured to operate on CB frequencies or are similar to those evaluated by the Commission.⁴ Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Rules.⁵

5. Violations of the Act or the Rules may subject the violator to substantial monetary forfeitures,⁶ seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.⁷

6. Racoon may request an interview at the closest Commission Office, which is Federal Communications Commission, 2203 N Lois Avenue, Suite 1215, Tampa Florida 33607.⁸ You may contact this office by telephone, (XXX) XXXX-XXXX to schedule this interview, which must take place within 14 days of this Citation. Racoon may also submit a written statement to the above address within 14 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violations outlined above. Please reference file number EB-07-TP-072 when corresponding with the Commission.

7. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.⁹ Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.¹⁰

8. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Racoon's CB Repair, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Tampa Office
South Central Region
Enforcement Bureau

⁴ See Letter from Christopher Wright, General Counsel, FCC to John Atwood, Chief Intellectual Property Rights, US Customs Service, 14 FCC Rcd 7797 (OGC, 1999). See also definition of CB transmitter, 47 C.F.R. § 95.603(b) ("transmitter that operates or is intended to operate at a station authorized for the CB service").

⁵ 47 C.F.R. § 95.655(a); see also FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

⁶ 47 C.F.R. § 1.80(b)(3).

⁷ 47 U.S.C. §§ 401, 501, 503, 510.

⁸ 47 U.S.C. § 503(b)(5).

⁹ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹⁰ See 18 U.S.C. § 1001 *et seq.*